

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

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**CWP-35870-2019 (O&M).
Date of Decision: 31.08.2023.**

JAGWINDER SINGH AND ANOTHER

.. Petitioners

Versus

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. A.S. Manaise, Advocate, for the petitioner.

Mr. Saurav Verma, Addl. A.G. Punjab.

VINOD S. BHARDWAJ, J. (ORAL)

Challenge in the present writ petition is to the order dated 04.12.2019 (Annexure P-4) passed by respondent No.5 whereby the election of the Managing Committee of the Dirba Cooperative-cum-Processing Society Ltd. Dirba, District Sangrur, has been postponed mid-way and allegedly in an arbitrary and unconstitutional manner.

A perusal of the order dated 04.12.2019 (Annexure P-4) shows that election had been postponed for the pretext that the proxies/resolutions passed by member Societies appointing representatives could not be verified.

Reply on behalf of the respondents No.1 to 5 has been filed wherein it has been averred that the Societies which were members of the

above Co-operative-cum-Processing Society were required to send their attested resolutions appointing the representatives of the said Society to participate in the election of the said Cooperative-cum-Processing Society on 04.12.2019 from 10:00 A.M. to 2:00 P.M. However, when the Returning Officer visited the office of the said Marketing Society on 04.12.2019 to receive the resolutions, none of the member Society(ies) submitted/handed over the resolution during the prescribed time. As the process of elections had to start after receipt of the resolutions from the member Societies, which was not received, hence, the Assistant Returning Officer had to postpone the elections of the Cooperative-cum-Processing Society on 04.12.2019. It is further submitted that thereafter, the Dirba Cooperative Marketing-cum-Processing Society prepared another election programme for the election of the Managing Committee vide resolution dated 13.12.2019 and submitted the same to the Deputy Registrar, Cooperative Societies, Sangrur for approval. The same was duly approved by the Deputy Registrar vide Letter No.6222 dated 16.12.2019. According to the new approved election programme, the date of election was fixed as 23.12.2019 to 10.01.2020. The stay in the writ petition had been granted by the High Court against the order dated 04.12.2019. Hence, the election process could not be concluded. It is averred that since the resolutions were required to be submitted as a pre-requisite for holding elections to the Marketing Society and that as no resolutions had been submitted, hence, the question of holding of elections of the Marketing Society did not arise.

Learned counsel appearing for the petitioner has vehemently argued that as per the judgment of this Court in the matter of **Maghar Singh**

and another Vs. State of Punjab, reported as 1985 R.R.R. 631, and the subsequent judgments in the matter of *Navraj Singh and another Vs. State of Punjab and others, reported as 2012 (5) R.C.R. (Civil) 263*, the process of election once commenced could not be interfered with and that the authorities could not have postponed or stopped the election process.

With due reverence to the ratio laid in the above judgments, the controversy in the present case is factually on a different matrix. It is rather a case where the elections could not be held at all for want of resolutions from the member Societies, within the prescribed time schedule and is not a case where valid representations/resolutions had been received for conduct of elections and yet election is postponed.

Even though an effort has been made by the learned counsel for the petitioner to contend that election process should commence at the stage where it was left, however, it seems implausible that in the absence of any resolutions having been received as to whether any election could actually be held and/or not.

Learned counsel for the petitioner even though has referred to the purported receipt of resolutions at 2 O'clock by the Manager of the Dirba Cooperative Marketing-cum-Processing Society as pleaded in the petition, however, no rejoinder/replication to the specific stand of the respondents has been filed despite expiry of the period of 3½ years despite the specific case of the respondents on affidavit that no resolutions had been received during the period prescribed for submission of resolutions by the respective member Societies and there was a denial of the said document.

As the assertions made by the respondents on affidavit in their reply has remained uncontroverted and unrebutted, it is not possible for this Court to examine the disputed questions of fact at this stage.

The present writ petition is accordingly disposed of for the above reason as it involves disputed questions of fact with liberty to the parties to seek recourse to the alternative remedies available to them in accordance with law.

Pending misc. applications, if any, shall also stand disposed of accordingly.

August 31, 2023
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No